

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

	)	Case No. C 14-0780 SC
	)	
UNITED STATES OF AMERICA	)	ORDER GRANTING MOTION OF THE
	)	UNITED STATES TO COMPEL ANSWERS
Plaintiff,	)	FROM JULIO FIGUEROA TO SPECIAL
	)	<u>INTERROGATORIES</u>
v.	)	
	)	
\$209,815 IN UNITED STATES	)	
CURRENCY,	)	
	)	
Defendant.	)	
_____	)	
	)	
JULIO FIGUEROA,	)	
	)	
Claimant.	)	
_____	)	

**I. INTRODUCTION**

Now before the Court is Plaintiff United States of America's ("Plaintiff") motion to compel answers from Julio Figueroa ("Claimant") to special interrogatories. ECF No. 21 ("Mot."). The motion is fully briefed, ECF Nos. 21, 29 ("Opp'n"), and 36 ("Reply"), and appropriate for resolution without oral argument, Civ. L.R. 7-1(b). The motion is GRANTED, as explained below.

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**II. BACKGROUND**

This is a civil forfeiture case arising out of \$209,815 in United States currency ("the currency") seized from Claimant's checked luggage at the San Francisco International Airport ("SFO") on September 27, 2013. ECF No. 1 ("Compl.") ¶ 1. While the precise factual circumstances underlying the interaction between DEA Agents and the Claimant remain an issue of contention among the parties, the Court need not resolve those issues on the present motion. See ECF Nos. 18, 39, 42 (describing Claimant's pending motion to suppress and subsequent briefing).

On February 20, 2014, Plaintiff filed a complaint for civil forfeiture under 21 U.S.C. Section 983 arguing that the currency is subject to forfeiture as "moneys . . . furnished or intended to be furnished by [a] person in exchange for a controlled substance . . . [,] proceeds traceable to such an exchange, [or] money[] . . . used or intended to be used to facilitate a violation of [Subchapter I, Chapter 13 of Title 21, United States Code]." 21 U.S.C. § 881(a)(6). Claimant intervened, filing a verified claim and answer as required under the statute, and asserting "an ownership and possessory interest in, and the right to exercise dominion and control over[] all the defendant property." See ECF Nos. 11 ("Claim"); 14 ("Answer"). See also 18 U.S.C. § 983(a)(4)(A), (B); Supp. R. G(5).

Shortly thereafter, Plaintiff timely served on Claimant ten special interrogatories pursuant to Supplemental Rule G(6) for Certain Admiralty and Maritime Claims requesting, among other things, information related to Claimant's (1) circumstances of acquiring the currency, (2) records relating to the currency, (3)

1 the source of the currency, (4) facts supporting Claimant's claims  
2 of ownership and possessory interests in the currency, and (5) the  
3 identity of persons having knowledge of Claimant's interest in the  
4 currency. ECF No. 22 ("Kenney Decl.") Ex. A, Nos. 2-10. Claimant  
5 objects to these interrogatories, arguing primarily that they seek  
6 information beyond the scope of discovery permitted under  
7 Supplemental Rule G(6)(a). Opp'n at 2-3. Claimant further argues  
8 in his objections to Plaintiff's interrogatories that the requests  
9 are (1) "overly broad, burdensome, and oppressive," and (2) seek  
10 information in violation of Claimant's Fourth Amendment right  
11 against unreasonable searches and seizures. Kenney Decl. Ex. B.  
12 After raising these objections, Claimant's responses do little more  
13 than restate Claimant's assertion of ownership and possession of  
14 the currency in his verified claim. Id. Now Plaintiff seeks to  
15 compel further answers to nine of the special interrogatories, but  
16 Claimant still refuses. See Opp'n at 2-3.

### 18 **III. DISCUSSION**

19 The Federal Rules of Civil Procedure authorize party-initiated  
20 discovery of any evidence that is relevant to any party's claims or  
21 defenses. Fed. R. Civ. P. 26(b)(1). However, discovery under Rule  
22 26 is generally barred prior to the initial case management  
23 conference. See Fed. R. Civ. P. 26(d)(1). Nevertheless, in the  
24 particular context of forfeiture proceedings, Supplemental Rule  
25 G(6) applies, which "supersedes the discovery 'moratorium' of Rule  
26 26(d)," and permits the government to file "limited interrogatories  
27 at any time after a claim is filed to gather information that bears  
28 on the claimant's standing." Advisory Committee Note to Subd. 6 of

1 Supp. R. G. While the scope of this rule is limited, the Ninth  
2 Circuit has stated that the rule "broadly allows the government to  
3 collect information regarding the claimant's relationship to the  
4 defendant property," and "contemplates that the government may seek  
5 information beyond the claimant's identity and type of property  
6 interest." United States v. \$133,420, 672 F.3d 629, 642 (9th Cir.  
7 2012).

8 Here, Claimant argues that because the scope of Supplemental  
9 Rule G(6) is limited to information bearing on Claimant's standing,  
10 and his responses to Plaintiff's special interrogatories and  
11 verified claim are sufficient to establish his standing at this  
12 stage, any further discovery necessarily exceeds the scope of the  
13 Rule. However, the Ninth Circuit has expressly rejected this  
14 argument, and found interrogatory responses virtually identical to  
15 those offered by counsel in this case insufficient. Id. at 642-43  
16 ("[Claimant's] premise that the only information relevant to  
17 standing is the claimant's identity and interest in the defendant  
18 property is simply incorrect . . . ."). Just as in \$133,420,  
19 Claimant's proffered narrow interpretation of Supplemental Rule  
20 G(6) would render Supplemental Rule G(5)(a)(i)(B), which already  
21 requires a verified claim to "identify the claimant and state the  
22 claimant's interest in the property," superfluous. Id. (quoting  
23 Spencer Enters., Inc. v. United States, 345 F.3d 683, 691 (9th Cir.  
24 2003)) (restating the "cardinal rule of statutory interpretation  
25 that no provision should be construed to be entirely redundant.").  
26 Furthermore, Claimant's position ignores the fact that "the  
27 advisory committee's note to this rule contemplates that the  
28 government may seek information beyond the claimant's identity and

1 type of property interest . . . ." Id. at 642 (citing Supp. R. G  
2 Advisory Committee's Note (subsection 6)). This interpretation is  
3 in accord with the other lower courts that have considered the  
4 scope of Supplemental Rule G(6). See, e.g., United States v.  
5 \$307,970, 4:12-CV-136, 2013 WL 4095373, at \*3 (E.D.N.C. Aug. 13,  
6 2013) ("[P]ermissible interrogatories as to a claimant's  
7 relationship to the defendant property may encompass more than just  
8 the type of interest asserted in the property.") (citing \$133,420,  
9 at 642-43); United States v. \$2,051,660, 07-cv-1338, 2008 WL  
10 8723566, at \*1 (D. Kans. Sept. 29, 2008) ("[T]he addition of  
11 Supplemental Rule G(6) phrase [sic] regarding 'claimant's identity  
12 and relationship to the defendant property' must allow more than a  
13 mere recitation of the information already required by Supplemental  
14 Rule G(5).").

15 Furthermore, unlike in \$133,420, here the Government has not  
16 sought admissions or production of documents, which are outside the  
17 scope of the Rule and might qualify as "overly broad, burdensome,  
18 and oppressive." 672 F.3d at 643 n.5; Kenney Decl. Ex. B.  
19 Instead, the interrogatories in this case mirror those endorsed by  
20 the Ninth Circuit in \$133,420, which also sought information  
21 relevant to (1) the nature of the Claimant's interest, and (2) the  
22 means by which the Claimant's interest was acquired (including,  
23 among other things, the dates, times, circumstances of each  
24 transaction, persons from which the currency was obtained, reasons  
25 why it was obtained, and names and contact information for  
26 witnesses to transactions in which it was obtained). Id. at 636.  
27 In other words, because Plaintiff's interrogatories are all  
28 "limited to the claimant's . . . relationship to the defendant

1 property," they are neither outside the scope of the Rule nor  
2 impermissibly broad. See Supp. R. G(6)(a).

3 For similar reasons, Claimant is incorrect that compelling  
4 answers to interrogatories requires him to "conclusively prove" his  
5 case at this stage. Opp'n at 3. While Claimant is right that the  
6 burden of proof remains on Plaintiff to establish a connection  
7 between the property and illegal drug trafficking, see 18 U.S.C. §  
8 983(c)(1), the fact that some of Claimant's interrogatory responses  
9 may help or hinder the Plaintiff's cause in carrying that burden  
10 does not impermissibly shift the burden onto Claimant. This  
11 conclusion is further underscored by the Supplemental Rules' grant  
12 of permission for special interrogatories at this stage in the  
13 proceedings. Supp. R. G(6)(a), (b) (permitting interrogatories at  
14 any time after the claim is filed and before discovery closes and  
15 requiring answers be served within 21 days).

16 Finally, Claimant's verified response to Plaintiff's  
17 interrogatories raises an additional objection -- that Plaintiff's  
18 interrogatories seek information "in violation of Claimant's Fourth  
19 Amendment rights against an unreasonable search and seizure of his  
20 property and his . . . right . . . to have any evidence obtained as  
21 a result of such illegality suppressed in these proceedings and/or  
22 any other proceeding." Kinney Decl. Ex. B at 5; see also, e.g.,  
23 id. at 6, 8, 10, 12, 14, 16, 18, 20 (raising the same objection).  
24 Nevertheless, Claimant's memorandum offers no analysis of this  
25 contention. Claimant's argument is, as best as the Court can  
26 determine, simply repetitive of his argument, raised in his pending  
27 motion to suppress, ECF No. 18, that the evidence obtained from the  
28 search of his baggage should be suppressed. Id. To the extent

1 Claimant is asserting an additional objection based on the  
2 interrogatories themselves, just as in \$133,420, Claimant has  
3 offered no "coherent support for those objections," and the Court  
4 similarly rejects them.<sup>1</sup> 672 F.3d at 644.

5  
6 **IV. CONCLUSION**

7 The Court therefore finds that Plaintiff's motion should be  
8 GRANTED. Nonetheless, the Court notes that Claimant has so far  
9 declined to raise any Fifth Amendment objections to these  
10 interrogatories. Because "courts must seek to accommodate the  
11 defendant's right against self-incrimination in a civil forfeiture  
12 proceeding," United States v. Thirteen (13) Mach. Guns, 689 F.2d  
13 861, 864 (9th Cir. 1982), nothing in this order should be construed  
14 to bar Claimant from raising such an objection.

15 IT IS THEREFORE ORDERED that the United States' Motion to  
16 Compel Answers from Julio Figueroa to Special interrogatories is  
17 GRANTED.

18 IT IS FURTHER ORDERED that Julio Figueroa shall serve  
19 supplemental answers no later than fourteen (14) days from the date  
20 of this order.

21  
22 Dated: June 30, 2014



23 UNITED STATES DISTRICT JUDGE  
24

25  
26 <sup>1</sup> If, on the other hand, Claimant believes that ordering answers to  
27 interrogatories would constitute a violation of his Fourth  
28 Amendment rights independent of the search and seizure of the  
currency the Court takes no position on that issue. Should  
Claimant wish to raise such an objection they may do so in a motion  
for a protective order pursuant to Federal Rule of Civil Procedure  
26(d).